

PM2.5/Clean Air Act: U.S. Court of Appeals Sets Schedule for EPA Nonattainment Designations



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

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The United States District Court for the Northern District of California ("District Court") in a July 17th Order issued a schedule for the United States Environmental Protection Agency ("EPA") to issue PM2.5 nonattainment designations. *See ALLIANCE OF NURSES FOR HEALTHY ENVIRONMENTS, et al., v. LEE MICHAEL ZELDIN*, Case No. 26-cv-03118-HSG.

The Order requires that EPA identify air quality control regions by February 6, 2020, that are in violation of the PM2.5 Clean Air Act National Ambient Air Quality Standards ("NAAQS").

[The D.C. Circuit Court of Appeals in a June 26th Opinion had rejected EPA's Motion to Vacate the Biden EPA rule that established a strengthened PM2.5 NAAQS.](#)

EPA subsequent to the Appellate Court's upholding the Biden-era PM2.5 NAAQS informed the District Court that it might seek permission to appeal the Appellate Court decision:

... which might result in a decision that moots this case months or years from now...

As a result, EPA argued for holding the case in abeyance in terms of designating PM2.5 nonattainment of air quality control regions. The agency further argued that:

1. Plaintiff environmental groups lack standing;
2. Court should decline jurisdiction under the prudential ripeness doctrine; and,
3. Plaintiff environmental groups' proposed remedies are infeasible and impossible.

The District Court held that the Plaintiffs demonstrated a fair possibility of real harms from delaying the proceedings. Further, it held EPA had not presented a clear case for hardship or inequity for being required to move forward now that the Appellate Court had issued its Opinion. As a result, the District Court declined to exercise jurisdiction to hold the matter in abeyance.

The Court held in part that it requires:

... Defendant to promulgate final designations for all areas of the country no later than February 6, 2027

A copy of the Opinion can be found [here](#).